

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner :</p> <p><b>DANIEL G. HENDERSON,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>JEFFERSON COUNTY BOARD OF COMMISSIONERS.</b></p>	<p><b>Docket No.: 50237</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on May 1, 2009, Karen E. Hart and Debra A. Baumbach presiding. Mr. Daniel G. Henderson appeared pro se. Respondent was represented by Martin McKinney Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2007, challenging the classification of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**Jefferson County Schedule No. 450722**

The subject property consists of a 2.3-acre parcel, located on the corner of Balsam Street and 105<sup>th</sup> Avenue in the City of Westminster. There are no utilities available to the site.

Respondent classified the subject property as vacant land for tax year 2007. Petitioner is requesting residential classification for tax year 2007.

Petitioner testified the subject property was purchased from his neighbor on November 10, 2006 for \$240,000.00. The primary reason for purchasing the parcel was for expanding his existing acreage for the purpose of recreational use by the family and the raising of livestock.

Mr. Henderson owns and resides on the acreage located directly south of the subject parcel. There is a road that separates the parcels known as 105<sup>th</sup> Avenue. The road is owned by Jefferson County, however has been maintained by Mr. Henderson and surrounding neighbors.

Mr. Henderson testified the subject meets the requirements for residential classification and not vacant land classification. The parcel has been used in conjunction with his residence and is also considered contiguous by a small 609-square-foot lot owned by a family member that adjoins all of the parcels together.

The subject property has been used for grazing horses and included a shelter. All water and utilities are provided by the primary residence. The hay and grain are stored on the primary residence. Mr. Henderson testified he rotates all of the parcels between recreational use by the family and grazing.

Respondent's witness, Ms. Tammy J. Crowley, testified the subject property does not meet the requirements for residential classification. Ms. Crowley testified the subject is situated north of Petitioner's two adjoining parcels. The subject property is separated from Petitioner's two adjoining parcels by 105<sup>th</sup> Avenue. The road separating the subject is owned by Jefferson County and albeit the county does not maintain the road it is an access road used by the homeowners in the area. The small portion of land owned by a family member connecting the sites does not meet the requirements for contiguous use and the site is not intrinsic to Petitioner's other property. Additionally, the subject property can be sold off separately and used for a different purpose other than in conjunction with Petitioner's other parcels.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly classified and valued for tax year 2007.

CRS section 39-1-102(14.4) defines "residential land" as "a parcel or contiguous parcels of land under common ownership upon which residential improvements are located and that is used as a unit in conjunction with the residential improvements located thereon."

The Board concludes the subject property does not meet the statutory requirements for residential classification. The subject is not contiguous to Petitioner's primary residence. The subject property is separated by a county owned road that is utilized by residents in the area. Petitioner does not own the road or the small land area connecting all the parcels together. The subject can be sold separately and utilized differently other than in conjunction with Petitioner's other parcels. Therefore, the Board finds Respondent's classification to be correct.

**ORDER:**

The petition is denied.

**APPEAL:**

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of CRS § 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the Respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of CRS § 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

CRS § 39-8-108(2) (2008).

**DATED and MAILED** this 18<sup>th</sup> day of June 2009.

**BOARD OF ASSESSMENT APPEALS**

*Karen E Hart*

Karen E. Hart

*Debra A Baumbach*

Debra A. Baumbach

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

*Heather Flannery*  
Heather Flannery

